

Municipal Council Minutes
Town Hall Auditorium
May 10, 2005 7:00PM

Pledge of Allegiance – Councilor Pinierio

Roll Call – Mario Pinierio, Robert Woodsom, Roger Benson, James Chandler, Ann Connolly King, Esther Headley, Anne Larnard, Christopher Lawrence and Joseph McMilleon

High School Building Project update

Barbara Bode – The steel is all here. Phase E, B & C should be at 70% however progress on that phase is at about 40%. Paid to date on the construction portion is \$4,967,000. There has been great control and quite a bit does not get paid. The biggest issue is whether or not there will be a building to go into by August. In the next couple of weeks there will be a communication from Dr. Chaurette about what will happen in the summer. There are personnel changes with Alexander, the Project Manager and Assistant Project Manager are leaving the company. We are at about 25% of the entire project.

Councilor Pinierio asks what happens if the building is not ready by August and you have to move the students halfway through the year?

Barbara Bode – The School Committee will deal with that issue.

Councilor Pinierio asks if Alexandra doesn't finish according to the contract what will the building committee do to finish this project?

Barbara Bode – The remedy is to file a claim and ask for damages. You have to wait until the project is complete or doesn't meet those deadlines. Simply not meeting the first phase is not grounds.

Councilor Pinierio asks who do you file a complaint with?

Barbara Bode – We have had bond council come in and had a meeting. We had attorneys from both sides and the bonding company to understand if any steps can be taken. Beyond that I am not sure the exact entity who we would file a claim with. It is outlined in MGL. There has already been communication about damages that will be sought after, claims that will be made.

Councilor Lawrence asks do you think we will be on schedule to complete the first phase by August.

Barbara Bode – There is a lot of work to be done. They are 75% along with this phase according to the timeline that was given yet the work that is completed is only at 40%.

Councilor Chandler asks how we assure that we don't get ahead of ourselves in payments.

Barbara Bode – There is a requisition that comes to the owners' representative Lee LeBlanc and to the architect. That req. has a great deal of scrutiny by our side as presented by Alexandra. Lee LeBlanc is our owner's representative to be certain that the work that is being asked to be paid for is paid for. The status and completion points of certain pieces of requisition for payment have to be verified. There are sometimes materials that need to be verify and all of that is very detailed oriented process that happens.

PUBLIC COMMENT

Hank Totzke, Wells Avenue – Mr. Totzke got up to speak on three topics that he feels were magnified by the library vote.

President McMilleon stops Mr. Totzke comments and says if he has comments about something that is going to come before the council on the agenda that would be fine. He will not allow an interpretation of the election results.

Marc Deschenes, Highland St. – Mr. Deschenes has a letter to read from his brother-in-law that is addressed to the legislative and executive branches of government.

President McMilleon asks Mr. Deschenes to stop.

Councilor Lawrence feels that residents can speak on any topic, not just what is on the agenda.

President McMilleon states that we had an election on the Library and it was defeated, he will not allow public comments to be used for other agendas or other interpretations of the vote. He states that Public comment will be used for two reasons 1) to make a comment for things that are going to come before the Council and 2) to bring to the attention of the Council concerns about things that need to be put in petition form or a crisis that needs to be addressed in the Community.

Councilor Pinierio disagrees. He feels that freedom of speech is being taken away from taxpayers.

Claude Gonthier – Mr. Gonthier states that the next time the Town of Amesbury wants to build, buy or affect a big change he wants the intent known before it becomes an irrevocable decision.

Annette Denietolis, 21 Orchard Street – Ms. Denietolis thanks Councilor Pinierio for a public apology in regards to his inappropriate behavior recently. Ms. Denietolis does not support Mayor Hildt's recommendation to use money left over in two revolving accounts to buy two police cruisers, she wants the money to be returned to the general fund as it should have been back in 1998. She wants the Finance Committee to look into whether the Council needs to approve a Union contract or if just approving the budget is enough according to Article 31. She feels that all employee contracts are supposed to be approved by the Municipal Council in City form of government.

Councilor Benson states that the Mayor does not have to come to the Municipal Council to spend the grant money for the cruisers he was trying to get the Council's opinion on his recommendation. He thinks each Councilor should contact the Mayor with their opinions.

Tom Iacobucci, Birchmeadow Rd. – Mr. Iacobucci states that they paid to file a law suit and to have it served along with all the miscellaneous expenses. He feels it is wrong for the town to expect them, as taxpayers to pay Kopleman & Paiges expenses for their efforts to keep everyone from voting. He feels if Kopleman & Paige read the charter the way that Judge Kottmyer read the charter they would have had a referendum election last September and they would not have had to sue the town. He suggests that the Council turn down the Mayor's request for supplemental appropriation for the legal bill.

Dave McClure, Paige Farm Rd. - Mr. McClure wants the money donated for the library expansion to be used for the library improvements.

Charles Chasse, 18 Greenwood St. – Mr. Chasse speaks about the Waterway Management Fee that is being proposed. He would like the town to collect the unpaid excise taxes due first. Second, to consider the duplication of services such as Coast Guard and the air boat and small aluminum boat at the Fire Dept that could be used by the Harbor Master.

Ann Iacobucci, Hillside Ave.

Councilor Larnard – When the referendum petition came forward I went to the charter. My guiding document as a Municipal Councilor is to go to the Charter. When I went to the charter to see what I should do with the referendum because certainly a lot of people signed it and I certainly would want to give credence to the number of people who signed the referendum to vote on the project, I read section 8.5 and it read measures not subject to the initiative and referendum procedure measures which include the following subject matters shall not be subject to initiative and referendum procedures. Section E said the town budget or any appropriations contain there in or the School Committee Budget or the Capital Improvement Program or any item contained there in. I am not a lawyer.....

Comments are being shouted from the back of the auditorium.

President McMilleon tries to maintain order in the auditorium and asks for people not to interrupt as Councilors are speaking and if they can not restrain themselves he asks for them to leave.

Recess 8:50

President McMilleon calls the meeting back to order. He reminds everyone that this is a formal meeting of the Municipal Council and that they have to be able to conduct business and work on the agenda.

Mayor Hildt – Mayor Hildt introduces his selection of the new Aide for his office, Joshua Handverger. He goes on to present the FY06 budget to the council.

President McMilleon declares the public comment period closed.

Accept the minutes of April, 12, 2005 – Motion made by Councilor Benson to accept and seconded by Councilor Pinierio – Voted Unanimous

LICENSES AND PERMITS

2005-45 License Renewals: Junk Dealers, Weekday Bowling, Sunday Bowling, Sunday Pool and Weekday Pool

President McMilleon reads 2005-45 into the record.

*Councilor Pinierio – Motion to accept 2005-45
Councilor Benson – second
Voted – Unanimous*

2005-46 Common Victualler License – Trivium Inc. – Town Ways

President McMilleon reads 2005-46 into the record

Ray Gregoire explains that he wants to sell hamburgers at the end of his driveway and maybe into the park during events.

Councilor Pinierio asks if Mr. Gregoire has any insurance.

Mr. Gregoire answers that he does.

Councilor Chandler questions the hours of operation.

Councilor Pinierio asks if it is near the little league field. Mr. Gregoire answers more near the pines but does not want to limit himself.

Councilor Benson – Move for approval pending the usual stipulations.

Councilor Pinierio second

Voted – Unanimous

2005-53 Junk Dealers License – Ashley & Barnes, 206 Elm Street

President McMilleon reads 2005-45 into the record.

Stephen Martine owner of Ashley & Barnes states that he and his lawyer overlooked this license.

Councilor Benson – Move for approval of 2005-53 per the usual stipulations.

Councilor Pinierio second

Voted - Unanimous

2005-54 Junk Dealers License – Fancy Schmancy, 41 Main Street

President McMilleon reads 2005-53 into the record.

Liz Frame owner of Fancy Schmancy states it was an oversight on her part not getting the junk dealers license earlier.

Councilor Pinierio – Motion to approve 2005-54

Councilor Benson second

Voted – Unanimous

MAYOR APPOINTMENTS

2005-51 Appointment of James R. O’Leary to Liquor Licensing Commission – unexpired term to expire 6/30/07

President McMilleon reads 2005-51 into the record

James R. O’Leary, 39 Market Street states he is a lawyer in town and has lived here for 20 years and would like to provide some public service.

Councilor Benson – Move for approval of 2005-51 as submitted.

Councilor Pinierio second

Voted – Unanimous

SECOND READINGS

2005-41 A Resolution that the Council accept the development study for the Lower Millyard as presented by the Office of Community and Ecomonic Development and Alliance for Amesbury – Mayor Hildt sponsor cont.

President McMilleon reads 2005-41 into the record

Joseph Fahey details the boundaries that makeup the lower Millyard and explains how the Alliance of Amesbury and the Town of Amesbury worked together to secure funds to do a redevelopment study for that area. They have secured bonding authorization through the Transportation Bond Bill approx. \$5 million for the relocation of the DPW garage. The transportation center and Carriage Museum has committed to be located in the lower Millyard. The study represents a commitment of the Town to move forward in the long term planning of that area. He explains that any decision by the Town to surplus the two properties owned by the Town must come before the Council to be approved.

Councilor Pinierio asks if the parking garage is going to be revamped.

Joseph Fahey states parking is going to be a problem and that he has requested approx. \$80,000 to look at the parking facility, revamping it and possibly adding additional parking by going after grants for that.

Councilor Chandler asks if the development would be given to one developer. Joe Fahey states that any action that has to be taken on the parcels the town owns has to come back to the Council.

Councilor Chandler asks what the status is on the \$5 million for relocating the DPW. Joseph Fahey responds that it was authorized as part of the Transportation Bond issue not necessarily granted. We are trying to get the State to release that bond for \$5 million.

Councilor Chandler asks about the pollution at the new site for the DPW and if they could be relocated now. Joe Fahey responds that the costs to clean up the site are significantly lower than before and yes it is highly likely to do something on that site now.

Councilor Lawrence states reading through the study the creation of an EDIC would make some people nervous. Mr. Fahey replies it would have to come back to the council.

Robert Gonthier states that the relocation of the DPW should be the first step and the Nichols property long after that because it will require zoning changes and a lot of money.

President McMilleon will entertain a motion to suspend the rules for public comment.

Councilor Benson motion to suspend the rules

Councilor Pinierio second

Voted Unanimous

Tom Iacobucci wants to make sure that by accepting this; the council is not accepting any obligations legal, financial or moral in the future and asks who paid for the study.

Mr. Fahey states the study was paid for through a combination of Mass Development Funds matched by the Alliance and the Town. As far as obligations, this is a general study saying that we want to do something in this area that is all.

Jack Luz wants to know what the commitment actually means. President McMilleon responds that primary reason for this endorsement of the plan is so Mr. Fahey and the Alliance can go out now and try to secure grant funds and to market what they want to be done. If they were to surplus town owned land it would have to come before the Council.

Donna McClure asks if this resolution passes what would it mean when this group goes to zoning. Mr. Fahey replies that any rezoning would have to come back to the Council and the Planning Board.

President McMilleon goes back into regular secession.

Councilor Pinierio asks Mr. Fahey what affect it would have if we did not get the \$5 million. Mr. Fahey responds that if the Town is not able to relocate DPW it would definitely adversely affect the plan.

Councilor Chandler makes a motion that the Council endorse bill 2005-41

Councilor Pinierio second

Voted Unanimous

2004-83 An Act authorizing the Town of Amesbury to establish a Tourism Promotion Fund – Councilor Lawrence sponsor cont.

President McMilleon reads 2004-83 into the record.

Councilor Lawrence moves to table 2004-83 until information is gathered and I will bring it back up in the future.

Councilor Pinierio second

Voted – 7 Yes, Benson not present

2005-12 To Amend Municipal Council Rules 5B and 11A – Councilor Connolly King & Larnard sponsor cont.

President McMilleon reads 2005-12 into the record

Councilor Larnard motions that since Councilor King was not able to be at the meeting due to a family emergency she asks to continue 2005-12.

Councilor Pinierio second

Voted – 7 Yes, Benson not present

PUBLIC HEARINGS

2004-126 To amend Article 7 of the Amesbury Town By Laws – Councilor Lawrence and Councilor Woodsom sponsor

President McMilleon reads 2004-126 into the record

Councilor Lawrence states there was a workshop and it was not very well attended. There is a recommendation from Ordinance to approve 2004-126.

Councilor Woodsom states there were a lot of questions raised in the workshop and there were not sufficient Councilors in attendance to benefit from the discussion. He feels that there is work that still needs to be done.

Councilor Pinierio feels that since the Ordinance Committee approved 2004-126 this should go back to a workshop.

President McMilleon feels that more discussion is needed be we are entering the budget hearings and it may not happen real soon.

Councilor Woodsom's opinion is to take this up January 1st with the new Finance Committee.

Councilor Woodsom moves to continue this to the June Council meeting.

Councilor Pinierio second

Voted 7 Yes, Benson not present

2005-24 An Ordinance to Ensure Access to Public Documents – Councilor Lawrence sponsor cont.

President McMilleon reads 2005-24 into the record.

Councilor Lawrence moves to continue 2005-24 to the June Council meeting.

Councilor Pinierio second

Voted – 7 Yes, Benson not present

2005-28 An Ordinance to approve Amesbury Waterway Management fees – Councilor Chandler cont.

President McMilleon reads 2005-28 into the record.

Councilor Chandler moves to continue to the June Council meeting.

Councilor Pinierio second

Voted – Unanimous

2005-44 An Act requesting the Municipal Council vote to accept MGL Ch. 31, Section 60A, a Civil Service provision – Mayor Hildt sponsor cont.

President McMilleon reads 2005-44 into the record.

Councilor Benson moves the recommendation of the Finance Committee to approve 2005-44

Councilor Larnard second

Roll Call Voted – Unanimous

2005-31 An Order to request the Municipal Council to accept a grant from the Exec. Office of Public Safety in the amount of \$49,875.00 – Mayor Hildt sponsor cont.

President McMilleon reads 2005-31 into the record.

Councilor Benson moves the recommendation of the Finance Committee to approve 2005-31.

Councilor Pinierio second

Roll Call Vote – Unanimous

2005-31 An Order to request the Municipal Council to accept a grant from the Exec. Office of Public Safety in the amount of \$49,875.00 – Mayor Hildt sponsor cont.

President McMilleon reads 2005-31 into the record and declares the public hearing open.

Councilor Benson moves the recommendation of the Finance Committee to approve 2005-31.

Councilor Pinierio second

Roll Call Vote - Unanimous

2005-35 An Order to request the Municipal Council to approve an increase in the Board of Health fees effective 7/1/05 – Mayor Hildt sponsor cont.

President McMilleon reads 2005-35 into the record.

Councilor Benson moves the recommendation of the Finance Committee to approve 2005-31
Councilor Pinierio second
Roll Call Vote – Unanimous

2005-36 An Order to authorize the transfer of \$3,097.00 from Insurance Receipts to Veterans – Mayor Hildt sponsor cont.

President McMilleon reads 2005-36 into the record.

Councilor Benson moves the recommendation of the Finance Committee to approve 2005-36
Councilor Pinierio second
Roll Call Vote – Unanimous

2005-37 An Order to vote to issue refunding bonds pursuant to CL. Ch 44, Sec. 21A – Mayor Hildt sponsor cont.

President McMilleon reads 2005-37 into the record.

Councilor Benson moves the recommendation of the Finance Committee to approve 2005-37.
Councilor Pinierio second
Roll Call Vote – Unanimous

2005-38 An Order to request the Municipal Council to accept a grant award in the amount of \$50,000 from the Mass Cultural Council – Mayor Hildt sponsor cont.

President McMilleon reads 2005-38 into the record.

Councilor Benson moves the recommendation of the Finance Committee to approve 2005-38.
Councilor Chandler second
Roll Call Vote – Unanimous

2005-42 An Ordinance to establish a three member Cemetery Committee – Councilor Pinierio & Councilor Chandler sponsor cont.

President McMilleon reads 2005-42 into the record.

David Costello, Elm Street – Mr. Costello feels there is a system in place to keep track of labor used or needed in the cemeteries. He feels there is accountability for the funds because he keeps seeing results in the maintenance and care of the cemeteries. Since Mr. Spinale came to work for the DPW you can see great results. He does not think a three person committee is needed.

Councilor Chandler states that he wants to make the cemeteries revenue neutral and make sure that we are bringing in enough money to care for the cemeteries.

Councilor Headley wants to be sure that the commission would be for all cemeteries.

Councilor Larnard reminds everyone that several years ago the Mayor tried to organize a commission and it was voted down by the council. She feels it would be beneficial to look at that document because there was a lot of good information included.

Councilor Chandler moves to continue 2005-42 to the June council meeting.
Councilor Benson second
Voted – Unanimous

NEW BUSINESS

2005-47 An Order to authorize an appropriation of \$100,000 to the Stabilization Fund – Mayor Hildt sponsor

President McMilleon reads 2005-47 into the record.

Councilor Benson moves 2005-47 to be referred to the May 25th Finance Committee meeting and schedule a public hearing at the June council meeting.
Councilor Pinierio second
Voted – Unanimous

2005-48 An Order to authorize a transfer to Snow and Ice Removal to cover FY05 deficits – Mayor Hildt sponsor

President McMilleon reads 2005-48 into the record.

Councilor Benson moves to refer 2005-48 to the May 25th Finance meeting and schedule a public hearing at the June council meeting.
Councilor Pinierio second
Voted – Unanimous

2005-49 An Order to authorize a transfer between General Department Fund – Mayor Hildt sponsor

President McMilleon reads 2005-49 into the record.

Councilor Benson moves to refer 2005-49 to the May 25th Finance Committee meeting and schedule a public hearing at the June council meeting.
Councilor Pinierio second
Voted – Unanimous

2005-50 An Order to authorize the transfer from Reserve for Unforeseen and Rental Real Estate Revolving to Legal Services General – Mayor Hildt sponsor

President McMilleon reads 2005-50 into the record

Councilor Benson moves to refer 2005-50 to the May 25th Finance Committee meeting and schedule a public hearing at the June Council meeting and also the Ordinance Committee.
Councilor Woodsom second
Voted – Unanimous

2005-52 An Ordinance to impose a seasonal ban of animals on Lake Gardner Beach – Councilor King sponsor

President McMilleon reads 2005-52 into the record

Councilor Benson moves to refer 2005-52 to the Ordinance Committee and schedule a public hearing in June at the Council meeting.

Councilor Lawrence second

Voted – Unanimous

SUPPLEMENTAL AGENDA

2005-55 Joshua Handverger

President McMilleon reads 2005-55 into the record.

Councilor Benson moves to approve 2005-55 as submitted.

Councilor Lawrence second

Voted – Unanimous

Councilor Chandler wants an answer to whether or not the council is supposed to vote on union contracts.

CORRESPONDENCE BOARDS, COMMITTEES ETC.

2005-56 Declare vacancy on Planning Board and schedule a joint meeting with Planning Board

President McMilleon – reads 2005-56 into the record and reads his resignation.

Councilor Benson moves to declare a vacancy on the Planning Board

Councilor Woodsom second

Voted – Unanimous

A joint meeting is scheduled for the June 14th council meeting.

FIRST READINGS

2005-57 FY2005 Budget

President McMilleon reads 2005-57 into the record.

Councilor Benson refers 2005-57 to the Finance Committee on May 25th.

Councilor Pinierio second

Voted – Unanimous

COMMITTEE REPORTS

Councilor Larnard reports that the Library Expansion Committee disbanded.

Councilor Benson motion to adjourn

Councilor Pinierio second

Voted – Unanimous

Respectfully submitted,
Assistant Town Clerk